

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JOHN JOSEPH NOSSE,

Movant,

v.

Case No. 3:16-0956

Case No. 3:03-00098

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Defendant's Emergency Motion to Vacate, Set Aside or Correct Sentence (ECF No. 51), deny as moot Defendant's Letter-Form Motion to Reduce Sentence (ECF No. 49), vacate Defendant's sentence, and set his judgment aside. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

The Court finds that at the time of his sentencing, the defendant was subject to a statutory maximum sentence of ten years, pursuant to 18 U.S.C. §§ 922(g)(1) and 924 (a)(2). The Court also finds that the defendant has served in excess of fourteen years in prison.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Defendant's Emergency Motion to Vacate, Set Aside or Correct Sentence (ECF No. 51), **DENIES AS MOOT** Defendant's Letter-Form Motion to Reduce

Sentence (ECF No. 49), **VACATES** Defendant's sentence, and sets his judgment aside, consistent with the findings and recommendations. The Court will immediately resentence the defendant.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: March 26, 2018

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE